

**BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**NORMAN TADAYOSHI NISHI**  
1547 18<sup>TH</sup> Street  
Manhattan Beach, CA 90266

**Pharmacist License No. RPH 25974**

Respondent.

Case No. 4249

OAH No. L-2011080793

**DECISION AND ORDER**

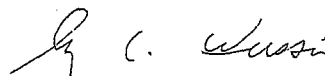
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on April 12, 2012.

It is so ORDERED on March 13, 2012.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



\_\_\_\_\_  
STANLEY C. WEISSER  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 GLORIA A. BARRIOS  
Supervising Deputy Attorney General  
3 LANGSTON M. EDWARDS  
Deputy Attorney General  
4 State Bar No. 237926  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 620-6343  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

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8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 4249

11 **NORMAN TADAYOSHI NISHI**  
12 1547 18th St.  
Manhattan Beach, CA 90266  
13 Pharmacist License No. RPH 25974

OAH No. L-2011080793

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

14 Respondent.

15  
16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
17 entitled proceedings that the following matters are true:  
18

19 **PARTIES**

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
21 She brought this action solely in her official capacity and is represented in this matter by Kamala  
22 D. Harris, Attorney General of the State of California, by Langston M. Edwards, Deputy Attorney  
23 General.

24 2. Norman Tadayoshi Nishi (Respondent) is represented in this proceeding by attorney  
25 Ronald S. Marks, Esq., whose address is 21900 Burbank Boulevard, Suite 300  
26 Woodland Hills, CA 91367.  
27  
28

3. On or about February 27, 1969, the Board of Pharmacy issued Pharmacist License No. RPH 25974 to Norman Tadayoshi Nishi (Respondent). The Pharmacist License expired on February 28, 2011, and has not been renewed.

## JURISDICTION

4. Accusation No. 4249 was filed before the Board of Pharmacy (Board) , Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 2, 2012.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 4249. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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ORDER

IT IS HEREBY ORDERED that Citation No. CI 2009 41227 issued to Respondent Norman Tadayoshi Nishi as well as the abatements and fines ordered by those citations, are withdrawn and dismissed and that Pharmacist License No. RPH 25974, issued to Respondent Norman Tadayoshi Nishi, is surrendered and accepted by the Board of Pharmacy.

1. The surrender of Respondent's Pharmacist License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Pharmacy.

2. Respondent shall lose all rights and privileges as a Pharmacist in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 4249 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

5. Respondent shall pay the agency a civil penalty in the amount of \$75,000.00 prior to issuance of a new or reinstated license.

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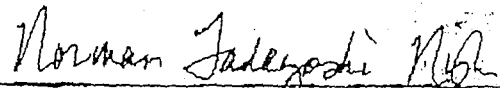
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ACCEPTANCE

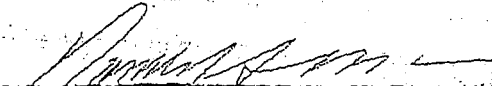
I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Ronald S. Marks, Esq. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 2/2/12

  
NORMAN TADAYOSHINISHI  
Respondent

I have read and fully discussed with Respondent Norman Tadayoshi Nishi the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 2/3/12

  
RONALD S. MARKS, ESQ.  
Attorney for Respondent

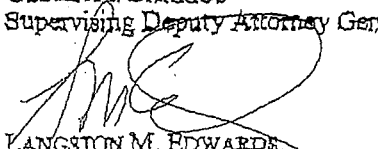
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated:

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
GLORIA A. BARRIOS  
Supervising Deputy Attorney General

  
LANGSTON M. EDWARDS  
Deputy Attorney General  
Attorneys for Complainant

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**Exhibit A**

**Accusation No. 4249**

]»

1 KAMALA D. HARRIS  
Attorney General of California  
2 GLORIA A. BARRIOS  
Supervising Deputy Attorney General  
3 LANGSTON M. EDWARDS  
Deputy Attorney General  
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12 **1547 18th St.**  
**Manhattan Beach, CA 90266**  
13 **Pharmacist License No. RPH 25974**

OAH No. L-2011080793

**ACCUSATION**

14 Respondent.

15  
16 Complainant alleges:

17 **PARTIES**

18 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
19 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

20 2. On or about February 27, 1969, the Board of Pharmacy issued Pharmacist License  
21 Number RPH 25974 to Norman Tadayoshi Nishi (Respondent). The Pharmacist License expired  
22 on February 28, 2011, and has not been renewed.

23  
24 **JURISDICTION**

25 3. This Accusation is brought before the Board of Pharmacy (Board), Department of  
26 Consumer Affairs, under the authority of the following laws. All section references are to the  
27 Business and Professions Code unless otherwise indicated.  
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2 4. Section 118, subdivision (b), of the Code provides, in pertinent part that the  
3 suspension, expiration, surrender or cancellation of a license shall not deprive the Board of  
4 jurisdiction to proceed with a disciplinary action during the period within which the license may  
5 be renewed, restored, reissued or reinstated.

6 5. Section 4300 of the Code states:

7 “(a) Every license issued may be suspended or revoked.

8 (b) The board shall discipline the holder of any license issued by the board, whose  
9 default has been entered or whose case has been heard by the board and found guilty, by any of  
10 the following methods:

11 ...  
12 (4) Revoking his or her license.

13 (5) Taking any other action in relation to disciplining him or her as the board in its  
14 discretion may deem proper.”

15 6. Section 4161 of Code states, in pertinent part:

16 “(a) A person located outside this state that (1) ships, sells, mails, or delivers dangerous  
17 drugs ... into this state or (2) sells, brokers, or distributes dangerous drugs ... within this state  
18 shall be considered a nonresident wholesaler.

19 (b) A nonresident wholesaler shall be licensed by the Board prior to shipping, selling,  
20 mailing, or delivering dangerous drugs ... to a site located in this state or selling, brokering, or  
21 distributing dangerous drugs ... within this state.”

22 7. Section 4169 of the Code states, in pertinent part:

23 “(a)(1) A person or entity may not purchase, trade, sell, or transfer dangerous drugs or  
24 dangerous devices at wholesale with a person or entity that is not licensed with the board as a  
25 wholesaler or pharmacy.”

26 8. Section 4301 of the Code states:

27 “The board shall take action against any holder of a license who is guilty of unprofessional  
28 conduct ... Unprofessional conduct shall include, but is not limited to, any of the following:

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“(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or terms of this chapter or the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal agency.”

(p) Actions or conduct that would have warranted denial of a license.”

9. Section 480 of the Code states:

“(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.”

10. Section 4105 of the Code states, in pertinent part:

“(a) All records or other documentation of the acquisition and disposition of dangerous drugs ... by any entity licensed by the Board shall be retained on the licensed premises in a readily retrievable form.

(b) The licensee may remove the original records or documentation from the licensed premises on a temporary basis for license-related purposes. However a duplicate set of those records or other documentation shall be retained on the licensed premises.

(c) The records required by this section shall be retained on the licensed premises for a period of three years from the date of making.”

11. Section 4081 of the Code states:

“(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three (3) years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy ... or establishment

1 holding a currently valid and unrevoked certificate, license, permit, registration, or exemption  
2 under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4  
3 (commencing with Section 16000) of Division 9 of the Welfare and Instructions Code who  
4 maintains a stock of dangerous drugs or dangerous devices.”

5 12. Section 4332 of Code states, in pertinent part, that any person who fails, neglects, or  
6 refuses to maintain the records required by Section 4081 or who when called upon by an  
7 authorized officer or a member of the board, fails, neglects, or refuses to produce or provide the  
8 records within a reasonable time, or who willfully produces or furnishes records that are false is  
9 guilty of a misdemeanor.”

10 13. California Code of Regulations, title 16, section 1714, states, in pertinent part:

11 “(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and  
12 equipment so that drugs are safely and properly prepared, maintained, secured and distributed.  
13 The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice  
14 of pharmacy.”

15 14. California Code of Regulations, title 16, section 1770, states:

16 “For the purpose of denial, suspension, or revocation of a personal or facility license  
17 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
18 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
19 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
20 licensee or registrant to perform the functions authorized by his license or registration in a manner  
21 consistent with the public health, safety, or welfare.”

### 22 23 BACKGROUND FACTS

24 15. On or around January 30, 1991, the Board issued Original Permit Number PHY  
25 36852 to Norman Tadayoshi Nishi (Respondent) to do business as Morningside Medical  
26 Pharmacy (Pharmacy) located at 1704 W. Manchester Ave., Los Angeles, CA 90047, the address  
27 of record.  
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2 THIRD CAUSE FOR DISCIPLINE

3 (Unprofessional Conduct: Violation of State Statutes)

4 22. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and  
5 (o) for violation of state statutes and provisions of Chapter 9 of the Code. Complainant  
6 incorporates by reference paragraphs 15 - 21 above, as if fully set forth herein.  
7

8 FOURTH CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct: Actions Warranting Denial of License)

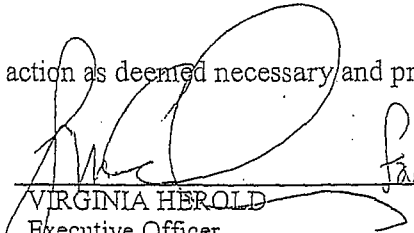
10 23. Respondent is subject to disciplinary action under sections 480, subdivision (a) and  
11 4301, subdivision (p) of the Code for committing acts that would have warranted denial of a  
12 license. Complainant incorporates by reference paragraphs 15 -22 above, as if fully set forth  
13 herein.  
14

15 PRAYER

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
17 and that following the hearing, the Board of Pharmacy issue a decision:

- 18 1. Revoking or suspending Pharmacist License Number RPH 25974, issued to Norman  
19 Tadayoshi Nishi;  
20 2. Ordering Norman Tadayoshi Nishi to pay the Board of Pharmacy the reasonable costs  
21 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
22 section 125.3;  
23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: 2/2/12

25   
26 VIRGINIA HEROLD  
27 Executive Officer  
28 Board of Pharmacy  
Department of Consumer Affairs  
State of California  
Complainant